

Panaji, 15th July, 1976 (Asadha 24, 1898)

SERIES I No. 16

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Labour and Information Department

Notification

1/227/73-76-LAB(MW)/1062

Whereas the draft notification fixing the minimum rates of wages payable to the employees employed in various classes of work in the scheduled employment of "Employment in cashew factories and establishments", specified in part I to the schedule of the Minimum Wages Act, 1948 (Central Act XI of 1948), was published as required by clause (b) of sub-section (1) of section 5 of the Minimum Wages Act, 1948 (Central Act XI of 1948) in the Official Gazette No. 51 Series I, dated 18th March, 1976 under the notification No. 1/227/73-76-LAB(MW)/415, dated 6th March, 1976 of the Labour and Information Department, Government of Goa, Daman and Diu, inviting objections and suggestions from any person likely to be affected thereby within 60 days from the date of publication of Notification in the Official Gazette;

And whereas the said Gazette was made available to the public on 18th March, 1976;

And whereas the objections and suggestions received from the public on the said draft Notification have been duly considered;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3, read with sub-section (2) of section 5 of the Minimum Wages Act, 1948 (Central Act XI of 1948), the Government of Goa, Daman and Diu hereby fixes the minimum rates of wages payable to the employees employed in the scheduled employment of "Employment in Cashew factories and establishments" specified in Part I to the schedule of the Minimum Wages Act, 1948 as shown in the Schedule below:—

SCHEDULE

Category of work	All inclusive minimum rates of wages Goa, Daman and Diu
I. Time-Rate Basis:	
(1) Grader or all other employees doing grading or similar work, by whatever name called	Rs. 3-50 per day or Rs. 91-00 per month.

Category of work	All inclusive minimum rates of wages Goa, Daman and Diu
(2) Roaster (3) Packer (4) Solderer (5) Dryer (Bhattiwala) (6) Soaker (7) Carpenter (8) Stenciller (9) Bag Carrier (10) General Worker (11) All other employees by whatever name called, doing the work analogous to the same done by the category of employees from (2) to (10).	Rs. 5-50 per day or Rs. 143-00 per month.
(12) Supervisor (Grading) (13) Watchman (14) Peon (15) Manaf and all other employees by whatever name called, doing the work and analogous in the category of employees from (12) to (14)	Rs. 6-00 per day or Rs. 156-00 per month.
(16) Clerk (17) Typist (18) Cashier (19) Storekeeper (20) Any other employees doing clerical or any other analogous work to categories (16) to (19) above.	Rs. 8-00 per day or Rs. 208-00 per month (Non-Matriculate).
(21) Driver or any other employee by whatever name called, doing the work analogous to the category that of Driver.	Rs. 10-00 per day or Rs. 260-00 per month (Matriculate and above).
II. Piece-Rate Basis:	
(22) Shelling or any analogous work.	Rs. 6-50 per day or Rs. 169-00 per month.
	Rs. 0-37 per kg. of whole kernel shelled excluding brokens.

Conditions:

i) Where in any area or establishment scheduled employment wages fixed under this notification are lower than the wages fixed by the Central Government or by agreement or settlement or contract or Contractor's regulations attached to the conditions of contract, the higher rate would be payable as Minimum Wages under this Notification.

ii) The minimum rates of wages are applicable to employees engaged by the Principal Employers or Contractors or Sub-Contractors, etc.

iii) The minimum rates of wages fixed is an all inclusive rate including the wages for the weekly day of rest.

iv) Both Men and Women workers have to be paid some rates of wages fixed for category and for equal work.

v) The minimum rates of wages payable to an adolescent certified to work as an adult shall be same

as an adult. In case he or she is certified to work as an adolescent only, the rate of wages payable shall be 75% of the minimum rates of wages fixed for 4½ hours work per day.

vi) Where part-time workers are employed, they should be paid pro-rata wages in accordance with the number of hours of work done.

vii) Where payment is made on piece-rate basis for any of the categories for which time-rate is fixed, the wages of the employees shall not be less than the minimum time rate fixed for a normal day's work.

By order and in the name of the Administrator of Goa, Daman and Diu.

P. Noronha, Under Secretary (Industries and Labour).

Panaji, 7th July, 1976.

Law and Judiciary Department

Notification

LD/33/76

The following Central Bill which was recently passed by the Parliament and assented to by the President of India on 11-2-76 and published in the Gazette of India Part II, Section 1 dated 11-2-76 is hereby republished for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 11th May, 1976.

The Payment of Bonus (Amendment) Act, 1976

AN ACT

further to amend the Payment of Bonus Act, 1965.

Be it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Payment of Bonus (Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 25th day of September, 1975.

2. *Amendment of long title.*—In the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:—

"An Act to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith."

3. *Amendment of section 1.*—In section 1 of the principal Act,—

(a) to sub-section (3), the following proviso shall be added, namely:—

"Provided that the appropriate Government may, after giving not

less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act with effect from such accounting year as may be specified in the notification, to any establishment or class of establishments [including an establishment being a factory within the meaning of sub-clause (ii) of clause (m) of section 2 of the Factories Act, 1948] employing such number of persons less than twenty as may be specified in the notification; so, however, that the number of persons so specified shall in no case be less than ten.";

(b) in sub-section (4), after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that when the provisions of this Act have been made applicable to any establishment or class of establishments by the issue of a notification under the proviso to sub-section (3), the reference to the accounting year commencing on any day in the year 1964 and every subsequent accounting year or, as the case may be, the reference to the accounting year commencing on any day in the year 1968 and every subsequent accounting year, shall, in relation to such establishment or class of establishments, be construed as a reference to the accounting year specified in such notification and every subsequent accounting year.";

(c) in sub-section (5),—

(i) the words, brackets, letter and figure "under clause (b) of sub-section (3)" shall be omitted;

(ii) the words, brackets and figure "or, as the case may be, the number specified in the notification issued under the proviso to sub-section (3)" shall be added at the end.

4. *Amendment of section 2.*—In section 2 of the principal Act,—

(a) in clause (4),—

(i) in sub-clause (a), the brackets and words "(other than a banking company)" shall be omitted;

(ii) the words, brackets and figures "and includes any amount treated as such under sub-section (2) of section 34" shall be omitted;

(b) in clause (8), after the words, brackets and figures "any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959", the words, brackets, figures and letter "any corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, any co-operative bank as defined in clause (bii) of section 2 of the Reserve Bank of India Act, 1934," shall be inserted.

5. *Substitution of new section for section 4.*—For section 4 of the principal Act, the following section shall be substituted, namely:—

"4. *Computation of gross profits.*—The gross profits derived by an employer from an establish-

ment in respect of any accounting year shall be calculated in the manner specified in the First Schedule."

6. *Amendment of section 6.* — In section 6 of the principal Act, in clause (d), for the words "Third Schedule", the words "Second Schedule" shall be substituted.

7. *Substitution of new section for section 10.* — For section 10 of the principal Act, the following section shall be substituted, namely: —

"10. (1) Subject to the other provisions of this Act, where an employer has any allocable surplus in any accounting year, then, he shall be bound to pay to every employee in respect of that accounting year a minimum bonus which shall not be less than four per cent. of the salary or wage earned by the employee during the accounting year or one hundred rupees whichever is higher, or, in a case where the allocable surplus exceeds the said amount of minimum bonus payable to the employees, an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of twenty per cent. of such salary or wage:

Provided that where an employee has not completed fifteen years of age at the beginning of that accounting year, the provisions of this sub-section shall have effect in relation to such employee as if for the words "one hundred rupees", the words "sixty rupees" were substituted.

(2) Notwithstanding anything contained in sub-section (1), every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1974, a minimum bonus which shall be four per cent. of the salary or wage earned by the employee during that accounting year or one hundred rupees whichever is higher, whether or not the employer has any allocable surplus in that accounting year:

Provided that where an employee has not completed fifteen years of age at the beginning of that accounting year, the provisions of this sub-section shall have effect in relation to such employee as if for the words "one hundred rupees", the words "sixty rupees" were substituted.

(8) For the purposes of this section, the allocable surplus shall be computed taking into account the amount set on or set off in the three immediately preceding years and in the accounting year in respect of which the bonus is payable, in the manner illustrated in the Third Schedule."

8. *Omission of section 11.* — Section 11 of the principal Act shall be omitted.

9. *Amendment of section 12.* — In section 12 of the principal Act, the words and figures "or, as the case may be, under section 11", shall be omitted.

10. *Substitution of new section for section 13.* — For section 13 of the principal Act, the following section shall be substituted, namely: —

"13. *Proportionate deduction in bonus in certain cases.* — Where an employee has not worked for all the working days in any accounting year, the

bonus payable to him under section 10 shall be proportionately reduced."

11. *Substitution of new section for section 15.* — For section 15 of the principal Act, the following section shall be substituted, namely: —

"15. *Set on and set off of allocable surplus.* — (1) Where for any accounting year, the allocable surplus exceeds the amount of bonus payable to the employees in the establishment under section 10, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so on, to be utilised for the purpose of payment of bonus, in the manner illustrated in the Third Schedule.

(2) Where for any accounting year, there is no allocable surplus or the allocable surplus in respect of that year falls short of the amount of bonus payable to the employees in the establishment under section 10, and there is no sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of bonus, then, so much amount as is necessary for the payment of bonus under this Act shall be carried forward for being set off in the succeeding accounting year and so on, in the manner illustrated in the Third Schedule.

(3) The principle of set on and set off as illustrated in the Third Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act."

12. *Amendment of section 16.* — In section 16 of the principal Act, —

(a) for sub-section (1) and the *Explanations* thereto, the following sub-sections and *Explanations* shall be substituted, namely: —

"(1) Where an establishment is newly set up, whether before or after the commencement of this Act, the employees of such establishment shall be entitled to be paid bonus under this Act in accordance with the provisions of sub-sections (1A), (1B) and (1C).

(1A) In the first five accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment and such bonus shall be calculated in accordance with the provisions of this Act in relation to that year, but without applying the provisions of section 15.

(1B) For the sixth and seventh accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 15 shall apply subject to the following modifications, namely: —

(i) for the sixth accounting year —
set on or set off, as the case may be, shall be made in the

manner illustrated in the Third Schedule taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth and sixth accounting years;

(ii) for the seventh accounting year —

set on or set off, as the case may be, shall be made in the manner illustrated in the Third Schedule taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth, sixth and seventh accounting years.

(1C) From the eighth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 15 shall apply in relation to such establishment as they apply in relation to any other establishment.

Explanation I. — For the purpose of sub-section (1), an establishment shall not be deemed to be newly set up merely by reason of a change in its location, management, name or ownership.

Explanation II. — For the purpose of sub-section (1A), an employer shall not be deemed to have derived profit in any accounting year unless —

(a) he has made provision for that year's depreciation to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income-tax law; and

(b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

Explanation III. — For the purposes of sub-sections (1A), (1B) and (1C), sale of the goods produced or manufactured during the course of the trial running of any factory or of the prospecting stage of any mine or an oil-field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the decision of the appropriate Government, made after giving the parties a reasonable opportunity of representing the case, shall be final and shall not be called in question by any court or other authority.”;

(b) in sub-section (2), for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letters “sub-sections (1), (1A), (1B) and (1C)” shall be substituted.

13. *Amendment of section 19.* — In section 19 of the principal Act, —

(a) in sub-section (1), for the brackets, figure and words “(1) Subject to the provisions of this section, all amounts” the words “All amounts” shall be substituted;

(b) sub-sections (2) to (7) shall be omitted.

14. *Amendment of section 20.* — In section 20 of the principal Act, —

(a) in sub-section (1), the brackets and figure “(1)” shall be omitted;

(b) sub-section (2) shall be omitted.

15. *Amendment of section 21.* — In section 21 of the principal Act, in the *Explanation*, the figures “, 24” shall be omitted.

16. *Amendment of section 23.* — In section 23 of the principal Act, in sub-section (1), for the words and figures “and in sections 24 and 25”, the words and figures “and in section 25” shall be substituted.

17. *Omission of section 24.* — Section 24 of the principal Act shall be omitted.

18. *Amendment of section 27.* — In section 27 of the principal Act, sub-section (5) shall be omitted.

19. *Insertion of new section 31A.* — After section 31 of the principal Act, the following section shall be inserted, namely: —

“31A. *Special provision with respect to payment of bonus linked with production or productivity.* — Notwithstanding anything contained in this Act, —

(i) where an agreement or a settlement has been entered into by the employees with their employer before the commencement of the Payment of Bonus (Amendment) Act, 1976, or

(ii) where the employees enter into any agreement or settlement with their employer after such commencement,

for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits payable under this Act, then, such employees shall be entitled to receive bonus due to them under such agreement or settlement, as the case may be:

Provided that such employees shall not be entitled to be paid such bonus in excess of twenty per cent. of the salary or wage earned by them during the relevant accounting year.”

20. *Amendment of section 32.* — In section 32 of the principal Act, —

(a) for clause (vii), the following clause shall be substituted, namely: —

“(vii) employees employed by a banking company;”;

(b) in clause (ix), —

(i) after sub-clause (f), the following sub-clause shall be inserted, namely: —

“(ff) the Industrial Reconstruction Corporation of India;”;

(ii) in sub-clause (g), the brackets and words “(other than a banking company)” shall be omitted;

(c) clause (x) shall be omitted.

21. *Omission of section 33.* — Section 33 of the principal Act shall be omitted.

22. *Substitution of new section for section 34.* — For section 34 of the principal Act, the following section shall be substituted, namely: —

“34. *Effect of laws and agreements inconsistent with the Act.* — Subject to the provisions of sec-

tion 31A, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, settlement or contract of service."

23. *Omission of section 37.*—Section 37 of the principal Act shall be omitted.

24. *Amendment of section 38.*—In section 38 of the principal Act, in sub-section (3),—

(a) for the words "or in two successive sessions", the words "or in two or more successive sessions" shall be substituted;

(b) for the words "in which it is so laid or the session immediately following", the words "immediately following the session or the successive sessions aforesaid" shall be substituted.

25. *Omission of the First Schedule.*—The First Schedule to the principal Act shall be omitted.

26. *Amendment of the Second Schedule.*—In the Second Schedule to the principal Act,—

(a) for the heading "THE SECOND SCHEDULE", the heading "THE FIRST SCHEDULE" shall be substituted;

(b) for the sub-heading "[See section 4(b)]", the sub-heading "(See section 4)" shall be substituted;

(c) in Item 3, after sub-item (a), the following sub-item shall be inserted, namely:—

"(aa) The amount debited in respect of gratuity paid or payable to employees in excess of the aggregate of—

(i) the amount, if any, paid to, or provided for payment to, an approved gratuity fund; and

(ii) the amount actually paid to employees on their retirement or on termination of their employment for any reason.";

(d) in Item 6, for sub-item (g), the following sub-item shall be substituted, namely:—

"(g) Cash subsidy, if any, given by the Government or by any body corporate established by any law for the time being in force or by any other agency through budgetary grants, whether given directly or through any agency for specified purposes and the proceeds of which are reserved for such purposes.";

(e) before the Foot-notes, the following *Explanation* shall be inserted, namely:—

Explanation.—In sub-item (aa) of Item 3, "approved gratuity fund" has the same meaning assigned to it in clause (5) of section 2 of the Income-tax Act.

27. *Amendment of the Third Schedule.*—In the Third Schedule to the principal Act,—

(a) for the heading "THE THIRD SCHEDULE", the heading "THE SECOND SCHEDULE" shall be substituted;

(b) in Item 1, in column (2), the words "other than a banking company" shall be omitted;

(c) Item 2 and the entries relating thereto shall be omitted;

(d) in the *Explanation*, the figures and brackets "2(iii)" shall be omitted.

28. *Substitution of new Schedule for the Fourth Schedule.*—For the Fourth Schedule to the principal Act, the following Schedule shall be substituted, namely:—

THE THIRD SCHEDULE

(See sections 10, 15 and 16)

The illustration in this Schedule has been worked out with reference to an establishment which has an annual salary or wage bill of rupees one lakh, twenty per cent. of which amounts to Rs. 20,000 and four per cent. of which amounts to Rs. 4,000.

Year	Amount equal to sixty per cent. or sixty-seven per cent., as the case may be, of available surplus allocable as bonus	'Set on' or 'set off' of the preceding year	Amount paid or payable as bonus	Balance of 'set on' or 'set off'
(1)	(2)	(3)	(4)	(5)
	(Rs.)	(Rs.)	(Rs.)	(Rs.)
1.	42,000	+3,000(a)	20,000	+23,000
2.	Nil	+23,000	20,000	+3,000
3.	10,000	+3,000	13,000	Nil
4.	10	Nil	4,000	—3,990
5.	100	—3,990	Nil	—3,890
6.	Nil	—3,890	Nil	—3,890
7.	23,890	—3,890	20,000	Nil
8.	Nil	Nil	Nil	Nil
9.	25,000	Nil	20,000	+5,000
10.	15,100	+5,000	20,000	+100
11.	Nil	+100	4,000	—3,900

Notes.—1. The notation "+" denotes 'set on' and the notation "—" denotes 'set off'.

2. "(a)" represents the amount 'set on' as calculated under the provisions of this Act as it stood immediately before the commencement of the Payment of Bonus (Amendment) Act, 1976.

29. *Amendment of section 36 of the Income-tax Act 1961.*—In sub-section (1) of section 36 of the Income-tax Act, 1961, 43 of 1961, in the proviso to clause (ii), for the words "Provided that the amount of the bonus or commission", the words and brackets "Provided further that the amount of the bonus (not being bonus referred to in the first proviso) or commission" shall be substituted and before that proviso as so amended, the following proviso shall be inserted, namely:—

"Provided that the deduction in respect of bonus paid to an employee employed in a factory or other establishment to which the provisions of the Payment of Bonus Act, 1965 apply shall not exceed the amount of bonus payable under that Act." 21 of 1965.

30. *Saving.*—For the removal of doubts, it is hereby declared that notwithstanding the amendments made to the principal Act by this Act, the provisions of the principal Act as they stood from time to time before the commencement of this Act

shall apply and continue to apply to and in relation to the payment of bonus in respect of any accounting year preceding the accounting year commencing on any day in the year 1974.

31. *Repeal and saving.* — (1) The Payment of Bonus (Amendment) Ordinance, 1975 is hereby repealed. 11 of 1975.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Notification

LD/3011/76

The following notification received from the Government of India, Ministry of Finance (Department of Revenue) New Delhi is hereby republished for general information of the public.

B. S. Subbanna, Draftsman.

Panaji, 5th July, 1976.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 5th January, 1963

Notification

Stamps

No. 18— In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby makes the following amendment to the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 6 dated the 14th July, 1961, namely:—

In the proviso to the said notification, after the words "Reserve Bank of India", the words "Industrial Finance Corporation of India", shall be inserted.

Sd/-

M. G. VAIDYA

Under Secretary to the Government of India

[No. 18/F. No. 1/96/62-Cus. VII-Stamps]